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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.
Secretary of Natural Resources

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David K. Paylor
Director

Steven A. Dietrich
Regional Director

COMMONWEALTH OF VIRGINIA WASTE MANAGEMENT BOARD CONSENT ORDER ISSUED TO

Commonwealth Laminating and Coating, Inc.
EPA ID: VAR000008433

Section A: Purpose

This is a consent order issued under the authority of §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Commonwealth Laminating and Coating, Inc. to resolve certain alleged violations of environmental laws and/or regulations at the Commonwealth Laminating and Coating, Inc. facility in Martinsville, Virginia.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "CLCI" means Commonwealth Laminating and Coating, Inc., a Virginia corporation, licensed to do business in Virginia on December 14, 1995.

6. "Order" means this document, also known as a consent order.
7. "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* ("HWMR"). The specific provisions of Title 40 of the Code of Federal Regulations ("CFR") cited herein are incorporated by reference at 9 VAC 20-60-260, 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-264, 9 VAC 20-60-265, 9 VAC 20-60-268, and 9 VAC 20-60-270.
8. "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*
9. "Regional Office" means the West Central Regional Office of the Virginia Department of Environmental Quality, which is located at 3019 Peters Creek Road, Roanoke, Virginia 24019.

Section C: Findings of Fact and Conclusions of Law

1. CLCI laminates and coats plastic film for use in window tinting for automotive and industrial applications in Martinsville, Virginia ("Facility"). CLCI is registered with EPA and the Department as a large quantity generator of hazardous waste and has been assigned EPA hazardous waste generator ID number VAR000008433.
2. Waste streams at the Facility include spent solvents that may include ethyl acetate, methyl ethyl ketone ("MEK"), toluene, N-butyl acetate, pm acetate and isopropyl alcohol ("IPA"). Ignitable solids that may include MEK, toluene and IPA and ignitable caustic cleaners that may include IPA and potassium hydroxide. EPA waste codes for the above wastes include D001, D002, D035, F003, and F005.
3. Department staff conducted a hazardous waste compliance evaluation inspection at the CLCI facility on May 4, 2004. In a Notice of Violation issued to CLCI on May 11, 2004, the Department cited alleged violations of the Regulations that were documented by the inspection.
4. As a result of the Notice of Violation, CLCI entered into a Consent Order with the Department and the effective date of the Consent Order was November 24, 2004. The Consent Order assessed a civil charge of \$14,700 for 16 alleged violations of the Regulations. The Facility provided the necessary documentation to resolve the alleged violations prior to the effective date of the Consent Order and the Consent Order did not include a schedule of compliance.
5. A DEQ inspector conducted an inspection of the Facility on August 8, 2005. As a result of the inspection, a Notice of Violation was issued to CLCI on August 18, 2005. The Notice of Violation listed seven alleged violations at the Facility, six of which are repeat alleged

violations cited during the May 4, 2005 inspection and addressed in the Consent Order.

6. On September 19, 2005, a Facility representative submitted a response letter to the Notice of Violation, via electronic mail. In regards to alleged violations one and two, relating to the personnel training requirements in 40 CFR 264.14, the Facility contends that no recent employees of the Facility have been handling the hazardous waste without trained personnel present and the recent employees have been with the company for less than two months. It appears that the Facility has provided sufficient information explaining its position about the apparent violations of 40 CFR 264.14 as stated in the Notice of Violation.
7. Furthermore, the Facility representative provided sufficient information in the above mentioned communication for the Department to determine that the Facility has taken the necessary steps to resolve the alleged violations numbered 3 through 7 in the Notice of Violation, which are described in more detail below.
8. Inspection results showed that in apparent violation of 40 CFR 262.34(a)(2) and (3), CLCI failed to date one 55-gallon drum in the old the less than 90-day accumulation area, the less than 90-day rag drum was not properly dated, and the stacks of drums in the new less than 90-day accumulation area were not positioned so that each date and label on each drum was visible for inspection. This area of non-compliance was also cited in the inspection of CLC on May 4, 2004, the Notice of Violation dated May 11, 2004, and addressed in the Consent Order effective November 24, 2004.
9. Inspection results showed that in apparent violation of 40 CFR 262.3(c)(1) and (2), the satellite drum in the old mixing room was not properly labeled and the satellite drum for the U60 line (one of the Facility's production lines), was not properly labeled. This area of non-compliance was also cited in the inspection of CLC on May 4, 2004, the Notice of Violation dated May 11, 2004, and addressed in the Consent Order effective November 24, 2004.
10. Inspection results showed that in apparent violation of 40 CFR 265.174, CLCI was not completing weekly inspections of the less than 90-day hazardous waste accumulation areas. It was noted during the August 8, 2005 CEI that the most recent weekly inspection log provided by the Facility during the inspection was dated March February 23, 2005. This area of non-compliance was also cited in the inspection of CLC on May 4, 2004, the Notice of Violation dated May 11, 2004, and addressed in the Consent Order effective November 24, 2004.
11. Inspection results showed that in apparent violation of 40 CFR 262.42(a)(2), CLCI had failed to file exception reports documenting the fact that signed copies of manifests had not been returned. The facility had not received a signed returned manifest for the following manifests: number 99167 dated March 27, 2005 and number 99216 dated June 22, 2005. This area of non-compliance was also cited in the inspection of CLC on May 4, 2004, the

Notice of Violation dated May 11, 2004, and addressed in the Consent Order effective November 24, 2004.

12. Inspection results showed that in apparent violation of 40 CFR 265.35, CLCI had failed to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes. It was noted during the inspection that the required aisle space was not provided for in the new less than 90-day accumulation area. All drums could not be inspected because of the close proximity of other drums.

Section D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it pursuant to Code § 10.1-1455, orders CLCI, and CLCI voluntarily agrees, to pay a civil charge of Twenty-Five Thousand Six Hundred Dollars (\$25,600) in settlement of the violations cited in this Order. The civil charge shall be paid in full no later than 30 days after the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

The payment shall include CLCI's Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of CLCI, for good cause shown by CLCI, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations pertaining to the facility specifically identified herein, including the violations specified in the Notice of Violation issued by the Department to CLCI on August 18, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, CLCI admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. CLCI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. CLCI declares that it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act, Code § 10.1-1400 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding, or to judicial review of, any action taken by the Board or the Director to enforce this Order.
6. Failure by CLCI to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. CLCI shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other act of God, war, strike, or other such occurrences. CLCI must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. CLCI shall notify the Director and the Director of the Department's West Central Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director and the Director of the Department's West Central

Regional Office within 24 hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. Any plans, reports, schedules or specifications attached hereto or submitted by CLCI and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
11. This Order shall become effective upon execution by both the Director or his designee and CLCI. Notwithstanding the foregoing, CLCI agrees to be bound by any compliance date that precedes the effective date of this Order.
12. This Order shall terminate upon receipt by DEQ of the funds specified in Section D herein.
13. By the signature of an authorized official below, CLCI voluntarily agrees to the issuance of this Order.
14. The undersigned representative of CLCI certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind CLCI to this Order. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of CLCI.

And it is so ORDERED this day of MAY 11, 2006.

Steven A. Dietrich
FOR David K. Paylor, Director
Department of Environmental Quality

Commonwealth Laminating and Coating Inc. voluntarily agrees to the issuance of this Consent Order: 3/30/06

Stephen Phillips for Commonwealth Laminating and Coating, Inc.

The foregoing instrument was acknowledged before me on March 30, 2006

Consent Order

Commonwealth Laminating and Coating, Inc.

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By Stephen Phillips, President, on behalf of Commonwealth Laminating and Coating, Inc.

in the County/City of Henry, State of Virginia.

Chandra Penn

Notary Public

My Commission expires: October 2006